

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

OPERATING ENGINEERS LOCAL 139
HEALTH BENEFIT FUND, CENTRAL
PENSION FUND OF THE
INTERNATIONAL UNION OF
OPERATING ENGINEERS AND
PARTICIPATING EMPLOYERS,
WISCONSIN OPERATING
ENGINEERS SKILL IMPROVEMENT
AND APPRENTICESHIP FUND, JOINT
LABOR MANAGEMENT WORK
PRESERVATION FUND, TERRANCE
E. MCGOWAN, MICHAEL R.
FANNING, and INTERNATIONAL
UNION OF OPERATING ENGINEERS
LOCAL 139,

Plaintiffs,

v.

DANE COUNTY CONTRACTING
LLC,

Defendant.

Case No. 17-CV-1743-JPS

ORDER

Plaintiffs filed this action on December 14, 2017, alleging violations of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.*, arising from Defendant’s failure to pay fringe benefit contributions to the plaintiff funds, as well as its failure to pay administrative dues from employee wages to the plaintiff union, as required by the parties’ collective bargaining and trust agreements. (Docket #1). Plaintiffs filed a motion for summary judgment on June 13, 2018, seeking a judgment in their favor on Defendant’s delinquent

contributions and dues, as well as other amounts to which they are entitled under the parties' contracts and ERISA, including liquidated damages, interest, audit fees, and attorney's fees. (Docket #13); *see also* 29 U.S.C. § 1132(g)(2).

Defendant responded on August 13, 2018, stating that it did not oppose the motion but expected credit on the amount of the judgment for payments it has made to date. (Docket #20). In their reply, Plaintiffs agreed and amended their damages requests to incorporate Defendant's payments. (Docket #21). On the state of the record before the Court, and because the motion is unopposed, *see* Civ. L. R. 7(d), the Court will grant Plaintiffs' motion and issue a judgment in their favor reflecting the figures noted in their reply.

Accordingly,

IT IS ORDERED that Plaintiffs' motion for summary judgment (Docket #13) be and the same is hereby **GRANTED** as stated herein;

IT IS FURTHER ORDERED that the Clerk of the Court enter judgment in this matter as follows, with post-judgment interest to accrue as provided by law:

(1) Judgment on Count I in the amount of \$116,245.08 (comprising unpaid contributions, interest, and liquidated damages) in favor of Plaintiffs Operating Engineers Local 139 Health Benefit Fund and its Trustee, Terrance McGowan;

(2) Judgment on Count I in the amount of \$86,538.06 (comprising unpaid contributions, interest, and liquidated damages) in favor of Plaintiffs Central Pension Fund of the International Union of Operating Engineers and Participating Employers and its CEO, Michael Crabtree;

(3) Judgment on Count I in the amount of \$9,885.34 (comprising unpaid contributions, interest, and liquidated damages) in favor of Plaintiffs Wisconsin Operating Engineers Skill Improvement and Apprenticeship Fund and its Trustee, Terrance McGowan;

(4) Judgment on Count III in the amount of \$2,359.69 (comprising unpaid contributions, interest, and liquidated damages) in favor of Plaintiffs Joint Labor Management Work Preservation Fund and its Trustee, Terrance McGowan;

(5) Judgment on Count II in the amount of \$2,038.01 for administrative dues in favor of Plaintiff International Union of Operating Engineers Local 139; and

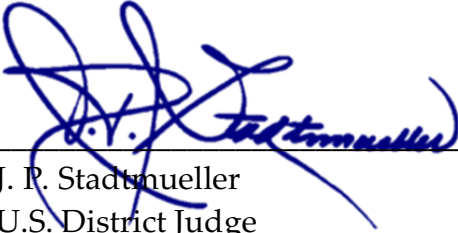
(6) Judgment on Counts I, II, and III in the total amount of \$11,296.00 for attorney's fees and costs in this matter in favor of all Plaintiffs; and

IT IS FURTHER ORDERED that this Order is entered without prejudice to Plaintiffs' right to audit or bring a lawsuit pertaining to time periods not previously audited by Plaintiffs, including the period of April 1, 2018 to the present.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 28th day of August, 2018.

BY THE COURT:



J. R. Stadtmueller
U.S. District Judge